

ADMINISTRATIVE PROCEDURES ACT OF 1969 (EXCERPT)
Act 306 of 1969

24.232 Statutory construction; discrimination; crimes; adoption by reference; effect of guideline, operational memorandum, bulletin, interpretive statement, or form with instructions; agency order; limitation on rule-making delegation.

Sec. 32. (1) Definitions of words and phrases and rules of construction prescribed in any statute that are made applicable to all statutes of this state also apply to rules unless clearly indicated to the contrary.

(2) A rule or exception to a rule must not discriminate in favor of or against any person. A person affected by a rule is entitled to the same benefits as any other person under the same or similar circumstances.

(3) The violation of a rule is a crime if provided by statute. Unless provided by statute, a rule must not designate an act or omission as a crime or prescribe a criminal penalty for violation of a rule.

(4) An agency may adopt by reference in its rules and without publishing the adopted matter in full all or any part of a code, standard, or regulation that has been adopted by an agency of the United States or by a nationally recognized organization or association. The reference must fully identify the adopted matter by date and otherwise. The reference must not cover any later amendments and editions of the adopted matter, but if the agency wishes to incorporate them in its rule, it shall do so by amending the rule or promulgating a new rule. The agency shall have available copies of the adopted matter for inspection and distribution to the public at cost and the rules must state where copies of the adopted matter are available from the agency and the agency of the United States or the national organization or association and the cost of a copy as of the time the rule is adopted.

(5) A guideline, operational memorandum, bulletin, interpretive statement, or form with instructions is not enforceable by an agency, is considered merely advisory, and must not be given the force and effect of law. An agency shall not rely upon a guideline, operational memorandum, bulletin, interpretive statement, or form with instructions to support the agency's decision to act or refuse to act if that decision is subject to judicial review. A court shall not rely upon a guideline, operational memorandum, bulletin, interpretive statement, or form with instructions to uphold an agency decision to act or refuse to act.

(6) If a statute provides that an agency may proceed by rule-making or by order and an agency proceeds by order instead of rule-making, the agency shall not give the order general applicability to persons that were not parties to the proceeding or contested case before the issuance of the order, unless the order was issued after public notice and a public hearing.

(7) A rule must not exceed the rule-making delegation contained in the statute authorizing the rule-making.

History: 1969, Act 306, Eff. July 1, 1970;—Am. 1970, Act 40, Imd. Eff. July 1, 1970;—Am. 2011, Act 270, Imd. Eff. Dec. 19, 2011;—Am. 2018, Act 602, Eff. Jan. 1, 2019;—Am. 2023, Act 104, Eff. Feb 13, 2024.

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